

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL APPLICATION NO.3335 OF 2005**

Pradeep Kumar Kewalchand Gupta
(sahu) and another

...Applicants

vs.

State of Maharashtra

...Respondent

Mr.M.K.Kocharekar for the Applicants
Ms M.M.Deshmukh,A.P.P. for State

**CORAM: A.S.OKA,J.
DATE : JUNE 10,2005.**

P.C.:

1. Heard Counsel appearing for the parties. This application is for bail filed by the Accused Nos.3 and 4. Offence has been registered under sections 307,323, 109, 352 read with 34 of the Indian Penal Code. In the F.I.R. filed by Sunil Hariprasad Gupta the allegation is that the Accused No.1 Guddu had sent Deepak, Pradip and Bechu for assaulting him. His allegation is that the said Deepak was having a weapon in his hand and the Applicants herein i.e. Bechu and Pradeep assaulted the complainant by fist blows and kicks. Same is the allegation made by the complainant in his statement dated 21st September 2004. In the statement of another witness Kallu Manglu Maurya it is alleged that the Applicants used cricket bat and stumps for assaulting the Applicant. The other witness Mohamed Shabbir stated that the accused Deepak was accompanied by three associates who were carrying the wooden sticks. The witness Babloo has alleged that the Applicants used cricket bat and stumps for assaulting the complainant. Same is the allegation made by the last witness Mukeshkumar.

2. an Application was made by the accused No.1 Guddu and the present Applicants before the Sessions Court for grant of bail. While rejecting the Application on 21st February 2005, the learned Sessions Judge observed that the Application for bail made by the Accused No.1 has been rejected by this Court by the order dated 3rd February 2005. I have perused the order dated 3rd February 2005 which is placed on record.

3. The Counsel appearing for the Applicant submitted that the injury certificate produced on record shows that there are only stab wounds on the person of the complainant. He stated that the complainant in his own statement has alleged that the Applicants assaulted him by fist blows and kicks and he has not stated anything about the use of bat or stumps by the Applicants. He submitted that the case of the Accused No.1 is totally different.

4. The learned A.P.P. relied upon the order passed by this Court on 3rd February 2005 by which the Application made by the Accused No.1 was rejected.

5. The complainant has not alleged that the Applicants used any weapon. The only allegation is that he was assaulted with fist blows and kicks. This Court has rejected the Application made by Guddu, accused No.1. The allegation against Guddu is that the accused persons assaulted the complainant at the instance of Guddu. The role played by Deepak is that he stabbed the complainant by knife. Considering the role played by Guddu this Court did not grant him bail. However, the case of the Applicants is totally different. As stated earlier the

role ascribed to the Applicant is totally different from the role ascribed to accused No.1. The witnesses have given inconsistent statements regarding the role placed by the Applicants.

6. Investigation is already completed and the charge sheet has been filed long back. Therefore, in my view a case is made out for grant of bail.

7. Hence I pass the following order :

i) The Applicants are directed to be enlarged on bail subject to both the Applicants furnishing P.R.Bonds in the sum of Rs.10,000/- (Rupees ten thousand only) each with one or two local sureties in the like amount.

ii) The Bail is granted subject to the condition that the Applicants will attend all the dates fixed before the Trial Court and will cooperate with the learned Trial Judge for early conclusion of the trial.

iii) In case the trial Judge finds that the trial is delayed on account of the Applicants, the learned Judge will make entry to that effect in the Roznama of the proceeding and it may be a ground for cancellation of bail.

iv) Application is disposed of in above terms.

v) Parties to act upon an authenticated copy of this order.

JUDGE